United Nations S/2004/182

Security Council

Distr.: General
10 March 2004

Original: English

Letter dated 26 February 2004 from the Secretary-General addressed to the President of the Security Council

Members of the Security Council will recall that, by resolution 1315 (2000) of 14 August 2000, the Council requested me to negotiate an agreement with the Government of Sierra Leone to create an independent special court to prosecute persons who bear the greatest responsibility for the commission of crimes against humanity, war crimes and other serious violations of international humanitarian law, as well as crimes under relevant Sierra Leonean law committed within the territory of Sierra Leone.

While my preference was that the Court be funded from assessed contributions the Security Council decided that the expenses of the Special Court should be borne by way of voluntary contributions from the international community. The Security Council however agreed with my proposal that only after the United Nations had received sufficient funds for the first year of the Court's operation and had also received substantial pledges for the second and third years, would I request the Legal Counsel, on behalf of the United Nations, to finalize an agreement on the establishment of the Special Court with the Government of Sierra Leone (see S/2001/693).

Subsequently, after I had made various appeals to States, sufficient funds were received and substantial amounts pledged for this purpose and, on 16 January 2002 the Legal Counsel and the Attorney-General of Sierra Leone signed the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone (S/2002/246, appendix II).

Since January 2002 tremendous progress has been made in setting up the Court in Freetown. The Registrar has put in place the necessary infrastructure and support services to ensure the effective functioning of the Court; the Prosecutor has been conducting extensive investigations both inside and outside Sierra Leone and is ready to go to trial in March 2004. The Trial Chamber recently ruled that the nine persons indicted by the Court and currently in its custody should be tried jointly in three groups. It is estimated that the three trials will take approximately one year, that is, until March 2005. Allowing for appeals after the trial judges have rendered their decisions, the trials should, it is hoped, be completed by December 2005.

However, despite efforts by myself as well as demarches and other efforts at the highest level by representatives of Member States, financing through voluntary contributions will only carry the Court to the end of the second year of its operations

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(i.e., until 30 June 2004) by which time the Court will have consumed most of the moneys thus far available to it.

Immediate steps therefore need to be taken to make up for the shortfall for the third year so that trials can go ahead. Voluntary contributions for the third year are, at this stage, estimated to be no more than US$ 8 million which means that, against a provisionally estimated budget of $28-30 million the estimated shortfall will probably be in the region of $20-22 million.

While the Security Council has always proceeded from the premise that the costs of the Special Court should be borne by Member States in the form of voluntary contributions, I have always expressed a preference for financing through assessed contributions as the only viable and sustainable financial mechanism to afford secure and continuous funding. Accordingly, in the letters that I sent to the President of the Council when I authorized the commencement of the Court, I reserved the right to revert to the Council at any time in the course of the Court's operation.

Now that the Special Court is established, it is essential that the Special Court be allowed to complete its work so that it can bring to justice those who bear the greatest responsibility for the very serious crimes committed in Sierra Leone. The work of the Court is integral to the process of national reconciliation and to the restoration and maintenance of peace and security in that country.

I therefore wish to propose to members of the Council that one way of addressing the shortfall would be for all or part of the third year costs of the Court to be provided by assessment while preserving the independent nature of the Court.

The Security Council may wish to invite me to bring the matter to the attention of the General Assembly with a view to seeking the appropriation of funds for the Court, while preserving the independence of the Court.

I should be grateful if you would bring the present letter to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**